UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

DONALD RAY PHILLIPS,)	
)	
Petitioner,)	
)	
VS.)	Case No. 4:07CV00521 ERW
)	
TROY STEELE, and CHRIS KOSTER,)	
)	
Respondents.)	

MEMORANDUM AND ORDER

This matter comes before the Court on Petitioner Donald Ray Phillips' Application for Certificate of Appealability [doc. #56]. On November 18, 2010, this Court issued a Memorandum and Order [doc. #53], which denied Petitioner's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody. The Court's November 18, 2010 Memorandum and Order also stated that Petitioner was denied a certificate of appealability.

A certificate of appealability will be issued only if the applicant has made a substantial showing of the denial of a constitutional right and has indicated which specific issue or issues satisfy the showing required. *See* 28 U.S.C. § 2253(c)(2)-(3). Additionally, "the petitioner 'must demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further." *Randolf v. Kemna*, 276 F.3d 401, 403 n.1 (8th Cir. 2002) (alteration in original) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.1 (1983)). Petitioner has failed to meet this burden.

Accordingly,

IT IS HEREBY ORDERED that Petitioner Donald Ray Phillips' Application for

Certificate of Appealability [doc. #56] is **DENIED**.

Dated this 15th Day of December, 2010.

E. RICHARD WEBBER

SENIOR UNITED STATES DISTRICT JUDGE